

REMARKS

Claims 1-17 are pending in this application. By this Amendment, claims 1, 10 and 15 are amended. Support for the amendments can be found, for example, in Figs. 9-15. No new matter is added. Reconsideration and prompt allowance of the pending claims is requested at least in light of the following remarks.

I. Telephone Interview

Applicants appreciate the courtesies shown to Applicants' representative by Examiner McClain in the February 17, 2010 telephone interview. Applicants' separate record of the substance of the interview is incorporated into the following remarks.

II. The Claims Define Patentable Subject Matter

The Office Action rejects claims 1-14, 16 and 17 under 35 U.S.C. §103(a) over WO 99/47362 to Stier in view of JP 04-317929 to Tanaka; and rejects claim 15 under 35 U.S.C. §103(a) over Stier in view of U.S. Patent No. 6,217,019 to Ishiduka and further in view of Tanaka. The rejections are respectfully traversed.

Stier, Tanaka and Ishiduka, either alone or in combination, fail teach or suggest each and every feature recited in claim 1. For example, Stier, Tanaka and Ishiduka, either alone or in combination, fail teach or suggest "wherein the package member includes two or more removable tear-off members that, when attached to the package member, permit the flap member to be in the open state but prevent the flap member from being folded back down so as to be adjacent and parallel to the second side of the package member, the flap member being permitted to be folded back down so as to be adjacent and parallel to the second side of the package member when the two or more tear-off members are removed from the package member," as recited in claim 1. For that matter, none of Stier, Tanaka and Ishiduka disclose any type of tear-off member. Therefore, claim 1 is patentable over the applied references.

In the February 17 telephone interview, Examiner McClain stated that JP-48-104334 ("JP '334") discloses a tear-off member. However, element 5 of JP '334 prevents element 3 from being positioned in an open position when element 5 is attached to element 4 (see JP '334, Figs. 1-4). In contrast, the tear-off members of claim 1 "permits the flap member to be in the open state" when the tear-off members are attached to the package member. Therefore, JP '334 fails to teach or suggest the claimed tear-off members.

Claims 10 and 15 also disclose this feature. Therefore, claims 10 and 15 are patentable at least for the reasons discussed above for claim 1 as well as for the additional features those claims recite.

Claims 2-9, 11-14, 16 and 17 depend from claims 1 and 10, respectively. Therefore, those claims are also patentable at least for their dependence from claims 1 and 10 as well as for the additional features those claims recite.

Withdrawal of the rejections is respectfully requested.

III. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attached:
Request for Continued Examination

Date: February 19, 2010

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